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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/345,202	06/30/1999	DAVID A. MARTIN	0236.0006	9944
26781	7590	12/14/2005	EXAMINER	
BROUSE MCDOWELL LPA 388 SOUTH MAIN STREET SUITE 500 AKRON, OH 44311			PATEL, JAGDISH	
			ART UNIT	PAPER NUMBER
			3624	

DATE MAILED: 12/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary****Application No.**

09/345,202

**Applicant(s)**

MARTIN, DAVID A.

**Examiner**

JAGDISH PATEL

**Art Unit**

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**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --****Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on amendment filed 10/17/05.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1, 6-12, 20 and 23-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 6-12, 20 and 23-27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. This communication is in response to amendment filed 10/17/2005.

#### ***Response to Amendment***

2. Claims 1, 6-8, 10-12, 20 and 23 have been amended and new claims 24-27 have been added. Claims 1, 6-12, 20 and 23-27 are currently pending.
3. The specification has been amended per request.

#### ***Response to Arguments***

4. Applicant's arguments with respect to rejection of claims under 35 USC 112 (second) has been fully considered. While the amended claims have overcome deficiencies indicated in the prior office action, the amendment have introduced certain new defects. Accordingly, the amended claims stand rejected under 35 USC 112(second) as further explained in the following section.

#### ***Claim Rejections - 35 USC § 112***

4. Claims 1, 6-12, 20 and 23-27 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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5. Independent claim 1 and dependent claims therefrom are rendered indefinite due to the following deficiencies.

a) The claim recites the step:

“presenting the check to the bank, the check containing a third set of information, third set of information comprising at least a payee, an amount, a date, a customer name, and a check number;”

“scanning the bar code;”

Note that the check has been created electronically whereby it contains a first set of information comprising at least a payee, an amount, a date, a customer name and a check number (refer to creating step) and a bar code is attached to the check, the bar code contains, an associated customer's account number, an associated an associated bank's routing number and at least one of the group consisting of .. and the check number.

Now, so long as the (same) check (as the one created as mentioned above), is presented to the bank, the third set of information will always be same as the first set of information. Furthermore, since the bar code is same bar code attached to the check which contains the same second set of information the comparison of the second set of information (for example, the check number) will always be identical.

The claim further recites “paying the check only if the second set of information is identical to the corresponding portion of the third set of information.

In other words the check is paid if the second set (say the bar code only consists of the payee in the second set) matches (or is identical) to the payee indicated on the presented

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check, however, the amount on the presented check is higher than that on the check created in the first place.

b) The claim recites the step “electronically transferring the account number, the routing number and the second set of information an associated bank”. This electronically transferred data has no reference in the subsequent steps. Therefore, it is unclear as to the purpose of the step and its role in the claim as a whole.

Based on the foregoing analysis the claimed invention is unclear and indefinite and therefore rejected under 35 USC 112 ( second).

Claim 6 and dependent claims 7-9 are indefinite for the following reasons:

1) The terms “the information from the negotiable instrument” lacks positive antecedent basis in the claim.

2) The limitation “having the drawer advise the drawee” has no functional relationship to other limitations. The claims fails to specify on what basis the drawer advises the drawee whether or not to pay.

Claims 6-9 are rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential steps, such omission amounting to a gap between the steps. See MPEP § 2172.01. The omitted steps are: comparing the information from the negotiable instrument accessed from the computer network to the information to the information recorded at the drawer institute, the paying must be based on the result of this comparison.

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3) the claim does not clarify where or who performs the entering of the information. Note that this qualification is critical since, if the drawer enters the information, the drawer cannot advise the drawee whether not to pay the negotiable instrument.

Appropriate corrections are required.

Claim 10 is rejected under 35 USC 112(second) because the electronically transferring information and the entering the second set of information into a database does not serve any function, not to mention the intended use as defined in the preamble. In this regard claim 10 is incomplete and therefore indefinite and stand rejected accordingly.

Dependent claim 11 does not cure the defect outlined in the foregoing paragraph of claim 10 analyses.

Claim 12 also contain deficiencies similar to those of claim 1 and should be carefully reviewed and revised.

Claim 20: the limitation "the payee" lacks proper antecedent basis.

Claim 20 additionally contain at least the deficiency outlined for claim 1 section a).

Appropriate correction are required.

### ***Conclusion***

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after

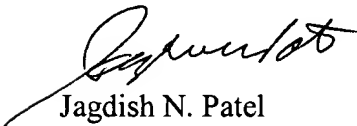
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the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JAGDISH PATEL whose telephone number is (571) 272-6748. The examiner can normally be reached on 800AM-600PM M-Th.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent Millin can be reached on (571) 272-6747. The fax phone number for the organization where this application or proceeding is assigned is 517-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Jagdish N. Patel

(Primary Examiner, AU 3624)

12/9/05